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C O N F I D E N T I A L SECTION 01 OF 02 ADDIS ABABA 000505

SIPDIS

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TAGS: PGOV PREL PTER ET
SUBJECT: ETHIOPIA CIRCULATES DRAFT ANTI-TERRORISM
PROCLAMATION

Classified By: Ambassador Donald Yamamoto. Reasons 1.4(b) and (d).

Summary

¶1. (C) The Government of Ethiopia (GoE) has drafted a comprehensive anti-terrorist statute (the "Anti-Terrorism Proclamation" (ATP)) that, if enacted in its current form, would give the GoE authorities comparable to those of a police state in matters related to terrorism, as it eliminates most civil liberties guaranteed to citizens in Ethiopia's constitution. The ATP is targeted at terrorist organizations and individuals who commit, plan, support, encourage or are otherwise involved in terrorist acts. Overbroad definitions mean the ATP could easily be applied to domestic opposition groups and give the GoE virtually limitless powers to identify and neutralize any perceived threat to its authority on anti-terrorism grounds. Punishments are harsh, generally 15 years to death or long periods of "rigorous punishment." The GoE has not indicated yet when it will pass the legislation. End Summary.

Broad Definitions

¶2. (C) The ATP is designed to provide the GoE the authority to neutralize the very real threats to Ethiopian state security posed by terrorist organizations and/or terrorists. "Terrorist Organization" is defined as "a group, association or organization which is composed of not less than two members with the objective of committing acts of terrorism or plans, prepares, (or) executes acts of terrorism or assists or incites others in any way to commit acts of terrorism..." The ATP provides a litany of broadly defined "terrorist acts," which are punishable by 15 years to death, ranging from obviously serious crimes - such as causing death or bodily harm - to more nebulous activities, such as "causing interference or disruption of any public service." Terrorist acts are distinguishable from ordinary crimes only in that they are committed by individuals or organizations "...for the purposes of advancing political, religious or ideological cause; and with the intention of: (a) coercing or intimidating the government; (b) intimidating the public or section of the public (sic.); or (c) destabilizing or destroying the fundamental political, constitutional, economic or social institutions of the country..."

¶3. (C) Planning, preparation and conspiracy to commit terrorist acts likewise carries the sentence of 15 years to death, while "rendering support to terrorism," which means supporting a terrorist organization or terrorist acts, either

knowingly or having reason to know, carries a penalty of 10 to 25 years of rigorous imprisonment. Rendering support includes providing money, materials and training, and also providing "moral support or giv(ing) advice." A separate section of the ATP, "Encouragement of Terrorism," captures writing, editing, printing, publishing, disseminating, showing or making heard any promotional statements encouraging, supporting or advancing terrorist acts or the objectives of a terrorist organization, and such encouragement is punishable by 10 to 20 years of rigorous imprisonment. Other provisions cover participation in a terrorist organization, or using or possessing property for terrorism, proceeds from terrorism, threatening witnesses, and destroying property. Failure to give information on terrorist threats or otherwise cooperate with authorities on terrorist matters can yield three to 10 years of rigorous imprisonment.

Elimination of Civil Liberties

¶4. (C) The ATP establishes special departments in the Justice Ministry and the Federal Police to track terrorism. The ATP, which would trump any contrary law in Ethiopia, tramples civil liberties guaranteed by the Ethiopian constitution where terrorism might be at play. Specifically, the ATP: (i) authorizes secret proceedings and unidentified witnesses; (ii) authorizes warrantless arrests of persons under "reasonable suspicion" that they have committed or are committing terrorist acts; (iii) authorizes Ethiopia's National Intelligence and Security Service (NISS) to conduct

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warrantless searches and secret intercepts, as well as surveillance; (iv) authorizes police warrantless "sudden searches" (of both body and property) at any time based on "reasonable suspicion that a terrorist act (would) be committed" (without specification by whom, how or when such act will be committed); (v) requires notification to police within 24 hours if a foreigner lives in one's house, or if one leases one's house, room, or vehicle to a third party; and (vi) stipulates that suspects must provide, if requested, samples of writing, hair, voice, print, photograph, blood, saliva or other body fluids, and may be subjected to medical tests, which the police may administer by force. The draft statute provides few protections for persons accused of terrorism, and even has procedural provisions that note, among other things, that hearsay is admissible and the burden of proof can shift to the accused if evidence is "found" on/in the accused's property or possession, or based on the "relationship of the accused with the commission of the crime" (sic.). The ATP further imposes a duty on citizens to report terrorist activities or otherwise cooperate with police, failure of which carries a penalty of three to ten years of rigorous punishment. Few legal safeguards in the draft ATP protect the accused, except where the case is to be tried in open court.

Comment: Opposition Beware

¶5. (C) Ethiopia is a U.S. partner in a rough neighborhood, and, with the turmoil in Somalia, faces an ever rising threat stream from Somalia and the Arabian peninsula. Though the ATP gives the GoE legal authorities to confront these threats meaningfully, the draft statute's overbroad nature, the lack of legal safeguards for persons accused of terrorism, as well as the ruling party's tendency to brand mainstream domestic opposition members as terrorists, presents the potential for abuse. Post will raise these concerns with GoE officials at the earliest opportunity. End Comment.

YAMAMOTO